IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

WP(C).No. 28324 of 2007(V)

PETITIONER:

SMT.SHABEELA BEEVI, RAGAM MANZIL,
PANACHAMOODU, PARASSALA,
THIRUVANANTHAPURAM.

BY ADV. SRI.P.RAVINDRAN

RESPONDENTS:

1. **THE REGIONAL TRANSPORT AUTHORITY,**
   THRIRUVANANTHAPURAM,
   REPRESENTED BY ITS SECRETARY.

2. **THE SECRETARY, RTA, THIRUVANANTHAPURAM.**

3. **SATHEESH KUMAR, T.C.NO.16/1658,**
   JAGATHY, THIRUVANANTHAPURAM.

BY ADV. SRI.K.V.GOPINATHAN NAIR
BY GOVERNMENT PLEADER SRI.BENJAMIN PAUL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/10/2007, THE COURT ON 5.10.2007 DELIVERED THE FOLLOWING:

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W.P.(C) NO.28324/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE TEMPORARY PERMIT ISSUED BY THE 1ST RESPONDENTS TO THE PETITIONER DT. 17.8.07.

EXT.P2:- COPY OF THE TEMPORARY PERMIT ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER DT. 6.9.07.

EXT.P3:- COPY OF THE APPLICATION PREFERRED BY THE PETITIONER DT. 15.9.07.

EXT.P4:- COPY OF THE TEMPORARY PERMIT ISSUED BY THE 1ST RESPONDENT TO THE 3RD RESPONDENT DT. 19.9.07.

EXT.R3(a):- COPY OF THE REGULAR PERMIT HOLDING BY THE 3RD REPRESENTED PERMITTING TO OPERATE SERVICE ON THE ROUTE PONGUMMOODU- JAGATHY VALID UP TO 17./10.2010.

/TRUE COPY/

P.S. TO JUDGE

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ANTONY DOMINIC, J.

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Dated this the 5th October, 2007

J U D G M E N T

The prayer in this writ petition is to quash Ext. P4 Temporary Permit granted in favour of the 3rd respondent and to direct respondents 1 and 2 to permit the petitioner to conduct service on the strength of Ext. P2 permit till its expiry. Petitioner would submit that there was a default vacancy in which he was initially granted Ext. P1 temporary permit and on its expiry Ext. P2, valid till 29-9-2007. While he was operating on the strength of Ext. P2, the 3rd respondent was issued Ext. P4 on 10-9-2007, valid till 29-9-2007. According to the petitioner, there was only one vacancy which was being catered to by him on the strength of Ext. P2 and therefore the additional permit could not have been granted to the 3rd respondent. He would also submit that it was the Secretary whose loyalty to the 3rd respondent is well known, who has granted the permit and therefore further application should be considered only by the 1st respondent.

2. On the other hand, the 3rd respondent would submit that he had a regular permit for the route in question. He was operating on the route on the strength of a regular permit valid till 17-10-2007 and that in the meanwhile his vehicle was stolen on 27-3-2007. Thereafter he acquired a new vehicle and as he was a regular permit holder, he was issued the temporary permit as per Ext. P4. He would submit that knowing this fully well, though Ext. P1 temporary permit held by the petitioner was valid till 9-9-2007, he got its renewal from the 2nd respondent by Ext. P2 on 5-9-2007 itself. According to the 3rd respondent on Ext. P4, he was operating in the route and the petitioner was asked to discontinue his operation thereafter.

3. In my view the resolution of this controversy may not be necessary for the disposal of this case for the reason that the period of both Exts. P2 and P4 have already expired. Counsel for the petitioner and counsel for the 3rd respondent submit that their clients have applied for temporary permit and that these applications are pending consideration of the

authority. If that be so, the authority has to consider the applications and grant permit to the suitable one among them.

4. I am not impressed by the contention of the learned counsel for the writ petitioner that the 1st respondent should itself consider the application. If the 2nd respondent has been delegated the power there is nothing wrong for the 2nd respondent to exercise the power. However, if the 2nd respondent acts illegally in granting the permit, that can always be subjected to challenge. But that does not mean that the 2nd respondent should be deprived of the power that it otherwise has.

5. Therefore, this writ petition is disposed of directing that the applications made for the route Pongummoodu-Jagathy will be considered and orders be passed thereon as expeditiously as possible.

ANTONY DOMINIC
JUDGE

jan/-